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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 CLINTON D. PEDERSON,

11 Plaintiff,

12 v.

13 UNITED STATES OF AMERICA,

14 Defendant;

15 and

16 LEANNE MCGILL

17 Plaintiff,

18 v.

19 UNITED STATES OF AMERICA,

20 Defendant.

CASE NOS. 3:18-cv-05988-RJB

AND 3:18-CV-5338-RJB

ORDER GRANTING PLAINTIFF
CLINTON PEDERSON'S MOTION
FOR SUMMARY JUDGMENT

21 This matter comes before the Court on Plaintiff Clinton Pederson's Motion for Summary
22 Judgment on Special Damages and Dismissal of Affirmative Defenses. Dkt. 39. The Court has
23 reviewed the pleadings filed regarding the motion and is fully advised.
24

1 This case arises from a motor vehicle collision which occurred when Jose Caywood, an
2 employee of the United States, Department of the Interior and the Bureau of Indian Affairs, hit
3 Plaintiff Clinton Pederson's vehicle, that, in turn, hit Plaintiff Leanne McGill's vehicle on State
4 Route 12. Dkt. 1. Plaintiff Pederson now moves for partial summary judgment. Dkt. 39. For
5 the reasons provided below, the motion (Dkt. 39) should be granted.

6 **A. MOTION FOR SUMMARY JUDGMENT STANDARD**

7 Summary judgment is proper only if the pleadings, the discovery and disclosure materials
8 on file, and any affidavits show that there is no genuine issue as to any material fact and that the
9 movant is entitled to judgment as a matter of law. Fed. R. Civ. P. 56 (c). The moving party is
10 entitled to judgment as a matter of law when the nonmoving party fails to make a sufficient
11 showing on an essential element of a claim in the case on which the nonmoving party has the
12 burden of proof. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1985). There is no genuine issue
13 of fact for trial where the record, taken as a whole, could not lead a rational trier of fact to find
14 for the nonmoving party. *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586
15 (1986)(nonmoving party must present specific, significant probative evidence, not simply "some
16 metaphysical doubt."). *See also* Fed. R. Civ. P. 56 (d). Conversely, a genuine dispute over a
17 material fact exists if there is sufficient evidence supporting the claimed factual dispute,
18 requiring a judge or jury to resolve the differing versions of the truth. *Anderson v. Liberty*
19 *Lobby, Inc.*, 477 U.S. 242, 253 (1986); *T.W. Elec. Service Inc. v. Pacific Electrical Contractors*
20 *Association*, 809 F.2d 626, 630 (9th Cir. 1987).

21 The determination of the existence of a material fact is often a close question. The court
22 must consider the substantive evidentiary burden that the nonmoving party must meet at trial –
23 e.g., a preponderance of the evidence in most civil cases. *Anderson*, 477 U.S. at 254, *T.W. Elect.*
24

1 *Service Inc.*, 809 F.2d at 630. The court must resolve any factual issues of controversy in favor
2 of the nonmoving party only when the facts specifically attested by that party contradict facts
3 specifically attested by the moving party. The nonmoving party may not merely state that it will
4 discredit the moving party's evidence at trial, in the hopes that evidence can be developed at trial
5 to support the claim. *T.W. Elect. Service Inc.*, 809 F.2d at 630 (relying on *Anderson, supra*).
6 Conclusory, non-specific statements in affidavits are not sufficient, and "missing facts" will not
7 be "presumed." *Lujan v. National Wildlife Federation*, 497 U.S. 871, 888-89 (1990).

8 **B. PLAINTIFF PEDERSON'S PARTIAL MOTION FOR SUMMARY**
9 **JUDGMENT**

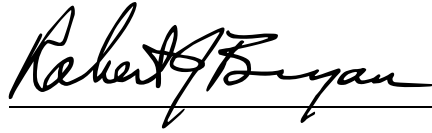
10 Plaintiff Pederson now moves for partial summary judgment arguing that: (1) the United
11 States is liable for the negligent conduct of its employee, Jose Caywood, and is at fault for the
12 collision, (2) Plaintiff Pederson's past medical damages, in the amount of \$3,010.90, are
13 reasonable and causally related to the collision, (3) all six affirmative defenses asserted against
14 Plaintiff Pederson should be dismissed: failure to mitigate, lack of proximate cause, contributory
15 negligence, third parties at fault, pre-existing conditions, and compliance with duty of care. Dkt.
16 39. The government responds and indicates that it does not oppose the motion. Dkt. 46.

17 Plaintiff Pederson's motion (Dkt. 39) has merit and should be granted. The United States
18 is liable for the negligence of its employee, Jose Caywood, and is at fault for the collision.
19 Plaintiff Pederson's medical damages of \$3010.90 are reasonable and related to the collision.
20 The United States' affirmative defenses, asserted against Plaintiff Pederson, are dismissed.

21 **IT IS SO ORDERED.**

22 The Clerk is directed to send uncertified copies of this Order to all counsel of record and
23 to any party appearing pro se at said party's last known address.
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1 Dated this 19th day of August, 2019.

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3 ROBERT J. BRYAN
4 United States District Judge